

SECTION 37 STREAM ACCESS AND PRESERVATION

- 37.1 Intent. The intent of this overlay district is to protect and preserve the water quality and visual quality of streams and riparian habitat and to encourage public access to rivers and streams.
- 37.2 Applicability of Stream Access and Preservation Guidelines. The provisions of this section shall apply to any application for a land use permit or subdivision on land located adjacent to or within 150 feet of the annual mean high water line of the Gallatin River and any other river or stream that flows year around during years of normal rainfall, as determined by the Gallatin County Planning Staff. The "Flood Plain Management Study, Gallatin River at Big Sky", as prepared by the USDA/NRCS, shall be used as reference where appropriate.
- 37.3 Submittal Requirements for Land Use Permits Along Designated River and Stream Corridors. Submittal materials for applications shall include:
- a. Survey of the subject parcel prepared by a registered land surveyor. The survey shall indicate property boundaries and the location of the annual mean high water line of the river or stream.
 - b. Site Plan at a scale of 1":20' or greater indicating the location of all proposed structures, site access and other site improvements.
 - c. Grading and drainage plan drawn at the same scale as the site plan indicating all proposed regrading, cross-sections of all proposed cuts and fills, heights of all proposed retaining walls, and proposed site drainage.
 - d. Erosion control and revegetation plan indicating all proposed measures to control surface water run-off, retain eroded soil material during construction and permanently stabilize disturbed slopes and drainage features upon completion of construction.
- 37.4 Design Standards. All development and site modifications proposed by the land use permit application shall comply with the following design standards:
- a. All buildings and site improvements shall maintain a minimum setback of 100 feet from the annual mean high water line of the Gallatin River and 50 feet from the annual mean high water line of all other designated streams.
 - b. Uses within the stream setback shall be limited to the planting of native riparian vegetation, agricultural uses (with the exception of

structures), maintenance of existing non-native vegetation, and the control and maintenance of noxious weeds, deadfall and selected pruning. The removal of existing native vegetation within the setback area is not permitted.

Notwithstanding the above, required setbacks for land use permit applications on lots of record that were legally subdivided or recorded prior to the effective date of this regulation shall be as follows:

- a. All buildings and site improvements shall maintain a minimum setback of 50 feet from the annual mean high water line of the Gallatin River and 25 feet from the annual mean high water line of all other designated streams.

37.5 Review Criteria. The following design criteria shall be used by the Planning Staff to evaluate land use permit applications. It shall be the burden of the applicant to demonstrate that proposed development complies with the following criteria, that one or more of the criteria are not applicable, or that a practical solution consistent with the purpose of this section has been achieved. The Planning Staff shall act on land use permit applications by either approving, approving with conditions or denying the application based compliance with the following:

- a. Appropriate temporary and permanent erosion control measures shall be provided to minimize sediment and other contaminants from interference with the river or stream.

37.6 Variances to Design Standards. Variances to Section 37.4 Design Standards for Land Use Permits Along Designated River and Stream Corridors shall be considered by the Planning and Zoning Commission in accordance with the Variance Section of the GC/BS Zoning Regulation. Prior to approving a variance request, the Commission shall make one or more of the following findings:

- a. Compliance with one or more of the design standards would deprive an owner of the reasonable use of its property;
- b. There are no practical alternatives to building within the required setback area.
- c. The proposed variance will result in greater compliance with the overall intent of Section 37.4 by preserving the water quality and visual quality or river and stream corridors in a manner that would not otherwise be possible by the strict adherence to Section 37.4 Design Standards.

37.7 Proposed Subdivision of Land Located Along Designated River and Stream Corridors. The following review process, design standards, and review criteria provisions shall apply for all minor and major subdivision applications on land located adjacent to or within 150 feet of the annual high water line of any designated river or stream.

37.8 Review Process. Design standards and review criteria outlined in this section shall be used by the Board of County Commissioners in conjunction with applicable subdivision review criteria to evaluate proposed subdivision applications. In the event of any conflicts between these design standards and review criteria, the most restrictive provision shall apply.

If warranted by the nature of the proposed development, the presence of unique site characteristics or other considerations, the Planning Staff may modify or waive any of the submittal requirements listed above.

37.9 Design Standards. Subdivision applications on land located along designated river and stream corridors shall comply with each of the following design standards:

- a. Building envelopes shall be required for all proposed lots. The building envelope defines the portion of each lot within which all improvements must be located. Improvements shall include all buildings, garages, decks, patios, terraces, retaining walls, fences, and recreational facilities. Site access improvements may be located outside of the building envelope.
- b. No portion of a building envelope shall be located within 100 feet of the annual high water line of the Gallatin River or 50 feet from any other designated river or stream.